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EXAMINER

ZHONG, CHAD

ART UNIT PAPER NUMBER

2152

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/784,068

Applicant(s)

DOBES ET AL.

Examiner

Chad Zhong

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### FINAL ACTION

1. This action is responsive to communications: Amendment, filed on 12/09/2004. This action has been made final.

Claims 1-26 are presented for examination. In amendment A, filed on 12/09/2004

During the Interview 10/05/04, the Examiner agrees to withdraw finality based on a misunderstanding in interview on 8/4/04 to give the applicant a second opportunity to respond to the office action.

Claims 1, 7, 10, 12, 14, 16, 20, 23, 25 have been amended.

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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Claims 1-26 are provisionally rejected under the judicially created doctrine of double patenting over claims 1, 7, 9, 10, 15 of co-pending Application No. 09-784075 in view of Gilbert et al. (hereinafter Gilbert), US 2002-0069163.

This is a provisional obviousness-type double patenting rejection.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

Present application 09-784068	Co-pending Application 09-784075
<p>1. A method for expanding customer bases for data services providers, comprising the steps of:</p> <p>connecting a first end-user of a first data services provider to a high-speed network operated by a third party and dedicated to broadband data transport services using a common provisioning system of the third party, the high-speed network being at least one of a hybrid fiber optic coaxial network and an all-fiber optic network;</p> <p>connecting a second end-user of a second data services provider to the high-speed network using the common provisioning system;</p> <p>connecting the first end-user to a <u>headend</u> of the first data services provider through a common data center of the high-speed network; and</p> <p>connecting the second end-user to a <u>headend</u> of the second data services provider through the common data center of the high-speed network</p> <p>generating a first bill for the first data</p>	<p>1. a system for self-authenticating a first end-user connected to a common network of a third party and a second end-user connected to the common network, the first end-user being a customer of a first service provider of multiple service providers and the second end-user being a customer of a second service provider of multiple service providers comprising:</p> <p>a digital repository populated with provider entries including information about the first service provider and other information about the second service provider</p> <p>end-user entries including information about the first end-user and other information about the second end-user, each of the end-user entries being associated with at least one service provider entry and</p> <p>service description entries including information about a level of service purchased by an end-user from a service provider, each of the service description entries being associated with an end-user entry</p> <p>a processor and</p> <p>a computer readable medium encoded with processor readable instructions that when executed by the processor implement</p> <p>a new device detection mechanism configured to detect a new device connected to the common network, the new device being associated with one of the first</p>

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<p>services provider by the common data center based on the first end-user's usage of the high speed network; and</p> <p>generating a second bill for the first data services provider by the common data center based on the second end-user's usage of the high speed network;</p> <p>wherein the third party, is not the first data services provider and not the second data services provider, and</p> <p>the first data services provider and the second data services provider each being a customer of the third party.</p>	<p>end-user and the second end-user</p> <p>a bandwidth allocation mechanism configured to allocate limited bandwidth on the common network to the new device and to provide access to an end-user authentication mechanism</p> <p>the end-user authentication mechanism configured to obtain identification information from the one of the first end-user and the second end-user</p> <p>a service determination mechanism configured to query the digital repository to determine the level of service purchased by the one of the first end-user and the second end-user from a respective one of the multiple service providers based on information obtained by the end-user authentication mechanism</p> <p>a service allocation mechanism configured to provide the level of service purchased to the one of the first end-user and the second end-user authenticated by the end-user authentication mechanism</p> <p>a customer billing mechanism configured to establish and maintain billing information in the digital repository for the third party by establishing a relationship between the one of the first end user and the second end user and the respective one of the multiple service providers and to generate a bill for respective one of the multiple service providers based on usage of the common network by the one of the first end user and the second end user</p>
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Headend is obviously available in CATV networks in order to transmit data to the subscribers

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

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Present application 09-784068	Co-pending Application 09-784075
2. The method of claim 1, wherein the <u>first end-user is geographically located outside of a peripheral reach of a communications plant operated by the first data services provider</u> , the communications plant being at least one of a hybrid fiber optic coaxial network and an all-fiber optic network.	7. The system of claim 1, wherein at least a portion of the common network comprises a hybrid fiber optic coaxial network

inherently, the communications plant have limited range, and the location of the first user would have been obviously be located outside of the limited range.

Present application 09-784068	Co-pending Application 09-784075
3. The method of claim 1, wherein the <u>headend</u> of the first data services provider is a <u>headend</u> for at least one of CATV signals and data.	9. The system of claim 1, wherein at least a portion of the common network comprises a Data Over Cable Service Interface Specification network.

It would have been obvious to have included headend into the CATV system in order to transmit data to the end users

Present application 09-784068	Co-pending Application 09-784075
4. The method of claim 2, wherein: the communications plant operated by the first data services provider carry CATV signals; and the peripheral reach of the communications plant is restricted by a governmental regulatory authority.	10. The system of claim 1, wherein at least a portion of the common network comprises a European Data Over Cable Service Interface Specification network.

Claim 4 is rejected under non-obvious type double patenting, Europe has specific standards as to the range of the network

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Present application 09-784068	Co-pending Application 09-784075
<p>6. The method of claim 1, further comprising the steps of: storing a first end-user entry in a database of the common data center corresponding to the first end-user; associating the first end-user entry with the first data services provider in the database; storing a second end-user entry in the database of the common data center corresponding to the second end-user; and associating the second end-user entry with the second data services provider in the database.</p>	<p>15. ... populating the digital repository with service provider entries including information about the first service provider and other information about the second service provider; end user entries including information about the first end-user and other information about the second end user, each of the end user entries being associated with at least one service provider...</p>

Claim 6 is rejected under non-obvious type double patenting.

Present application 09-784068	Co-pending Application 09-784075
<p>7. A method for supplementing subscribership for data services of a service provider that provides at least one of CATV services and data services in first geographic area, comprising the steps of: obtaining by a third party a contract from the service provider to provide data services for an end-user, the end-user located outside of the first geographic area; provisioning the end-user for data services using a common provisioning system of the third party; storing an end-user entry in a database of the third party corresponding to the end-user; associating the end-user entry with the service provider in the database; and connecting the end-user to a communication line operated by the service provider via a high speed data network of the third party, and generating a bill for the service provider by the third party based on the end-user's usage of high speed data network.</p>	<p>1. a system for self-authenticating a first end-user connected to a common network of a third party and a second end-user connected to the common network, the first end-user being a customer of a first service provider of multiple service providers and the second end-user being a customer of a second service provider of multiple service providers comprising:</p> <p>a digital repository populated with provider entries including information about the first service provider and other information about the second service provider</p> <p>end-user entries including information about the first end-user and other information about the second end-user, each of the end-user entries being associated with at least one service provider entry and</p> <p>service description entries including information about a level of service purchased by an end-user from a service provider, each of the service description entries being associated with an end-user entry</p> <p>a processor and</p> <p>a computer readable medium encoded with processor readable instructions that when executed by the processor implement</p> <p>a new device detection mechanism configured to detect a new device connected to the common</p>

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	<p>network, the new device being associated with one of the first end-user and the second end-user</p> <p>a bandwidth allocation mechanism configured to allocate limited bandwidth on the common network to the new device and to provide access to an end-user authentication mechanism</p> <p>the end-user authentication mechanism configured to obtain identification information from the one of the first end-user and the second end-user</p> <p>a service determination mechanism configured to query the digital repository to determine the level of service purchased by the one of the first end-user and the second end-user from a respective one of the multiple service providers based on information obtained by the end-user authentication mechanism</p> <p>a service allocation mechanism configured to provide the level of service purchased to the one of the first end-user and the second end-user authenticated by the end-user authentication mechanism</p> <p>a customer billing mechanism configured to establish and maintain billing information in the digital repository for the third party by establishing a relationship between the one of the first end user and the second end user and the respective one of the multiple service providers and to generate a bill for respective one of the multiple service providers based on usage of the common network by the one of the first end user and the second end user</p>
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Claim 7 is rejected under non-obvious type double patenting.

Present application 09-784068	Co-pending Application 09-784075
8. The method of claim 7, wherein the communications line operated by the service provider is connected to a headend through which at least one of CATV signals and data signals are transmitted.	

Claim 8 is rejected for the same reasons as rejection to claim 3 above



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Present application 09-784068	Co-pending Application 09-784075
9. The method of claim 8, wherein a peripheral reach of the communications line which carries the CATV signals is restricted by a governmental regulatory authority.	

Claim 9 is rejected for the same reasons as rejection to claim 4 above

Present application 09-784068	Co-pending Application 09-784075
10. A method for expanding customer bases for data services providers, comprising the steps of: <u>executing a subscription contract between a third party and a first data service provider to connect a first end-user to a high-speed network dedicated to broadband data transport services operated by the third party;</u> <u>executing another subscription contract between the third party and a second data service provider to connect a second end-user to the high-speed network;</u> connecting the first end-user to a headend of the first data service provider through a common data center of the high-speed network; and connecting the second end-user to a headend of the second data service provider through the common data center of the high-speed network.	See claim 1 of 09-784075

Gilbert teaches the subscription contract section in order to provide for proper billing, remainder of this

claim is rejected for the same reasons as rejection to claim 1 above.

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Present application 09-784068	Co-pending Application 09-784075
11. The method of claim 10, wherein at least one of the first data service provider and the second data service provider also provide cable television signals to communication lines connected to their respective headends.	

Claim 11 is rejected for the same reasons as rejection to claim 3 above

Present application 09-784068	Co-pending Application 09-784075
12. A method for reusing computer resources to provide operations support services to a plurality of Internet service providers with different customer bases, comprising the steps of: populating a digital repository with entries including information about end-users of a first Internet service provider; populating the digital repository with entries including information about end-users of a second Internet service provider, the second Internet service provider being different from the first Internet service provider; <u>presenting a graphical user interface to the first Internet service provider when seeking to at least one of access, create, and update the information about end-users of the first Internet service provider; and presenting the graphical user interface to the second Internet service provider when seeking to at least one of access, create, and update the information about end-users of the second Internet service provider.</u>	

Gilbert teaches presentation of GUI in order to access the database, in order to allow users to gain access

to the database with ease. The remainder of claim 12 is rejected for the same reasons as rejection to claim

1 and 10 above.

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Present application 09-784068	Co-pending Application 09-784075
13. The method of claim 12, further comprising the step of: providing from the first Internet service provider cable television service to other end-users, but not to the end-users of the first Internet service provider.	

claim 13 is rejected for the same reasons as rejection to claim 5 above.

Claim 14 is rejected for the same reason as rejection to claim 1 above.

Present application 09-784068	Co-pending Application 09-784075
15. The method of claim 14, wherein the <u>high-speed data network does not carry cable television signals.</u>	

Gilbert teaches non-CATV signals in order to have plurality of mediums to carry the data across a network.

As per claim 16, claim 16 is rejected for the same reasons as rejection to claim 1 above.

As per claim 17, claim 17 is rejected for the same reasons as rejection to claim 2 above.

As per claim 18, claim 18 is rejected for the same reasons as rejection to claim 3 above.

As per claim 19, claim 19 is rejected for the same reasons as rejection to claim 6 above.

As per claim 20, claim 20 is rejected for the same reasons as rejection to claim 1, 6, 7 above.

As per claim 21, claim 21 is rejected for the same reasons as rejection to claim 2 above.

As per claim 22, claim 22 is rejected for the same reasons as rejection to claim 4 above.

As per claim 23, claim 23 is rejected for the same reasons as rejection to claim 1, 6, 7, 12 above.

As per claim 24, claim 24 is rejected for the same reasons as rejection to claim 5 above.

As per claim 25, claim 25 is rejected for the same reasons as rejection to claim 1, 6, 7 above.

As per claim 26, claim 26 is rejected for the same reasons as rejection to claim 15 above

Claims 1-26 are provisionally rejected under the judicially created doctrine of double patenting over claims 1, 7, 9, 10, 15 of co-pending Application No. 09-784069 in view of Gilbert et al. (hereinafter Gilbert), US 2002-0069163.

Present application 09-784068	Co-pending Application 09-784069
<p>1. A method for expanding customer bases for data services providers, comprising the steps of:</p> <p>connecting a first end-user of a first data services provider to a high-speed network operated by a third party and dedicated to broadband data transport services using a common provisioning system of the third party, the high-speed network being at least one of a hybrid fiber optic coaxial network and an all-fiber optic network;</p> <p>connecting a second end-user of a second data services provider to the high-speed network using the common provisioning system;</p> <p>connecting the first end-user to a <u>headend</u> of the first data services provider through a common data center of the high-speed network; and</p> <p>connecting the second end-user to a <u>headend</u> of the second data services provider through the common data center of the high-speed network</p> <p><u>generating a first bill for the first data services provider by the common data center based on the first end-user's usage of the high speed network; and</u></p> <p><u>generating a second bill for the first data services provider by the common data center based on the second end-user's usage of the high speed network;</u></p> <p><u>wherein the third party, is not the first data services provider and not the second data services provider, and</u></p>	<p>1. a trouble ticketing system of a third for supporting multiple service providers, each having end-users connected to a common network of the third party, comprising:</p> <p>a digital repository populated with provider entries including information about a first service provider of the multiple service providers and other information about a second service provider of the multiple service providers</p> <p>end-user entries including information about end-users of the first service provider and other information about end-users of the second service provider, each of the end-user entries being associated with at least one of the service provider entries, and</p> <p>a processor</p> <p>a computer readable medium encoded with processor readable instructions that when executed by the processor implement,</p> <p>a common provisioning mechanism configured to provision end-users to the common network and to confirm that a selected service provider of the first service provider and the second service provider is a customer of the third party prior to provisioning an end user of the selected service provider to the common network,</p> <p>trouble ticket entries including trouble ticket</p>

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<u>the first data services provider and the second data services provider each being a customer of the third party.</u>	information including trouble ticket status information, each of the trouble ticket entries being associated with at least one of an end-user entry and a service provider entry and corresponding to usage of the common network  a common trouble ticket interface mechanism configured to provide a single user interface for the first service provider and the second service provider to access entries in the digital repository, the first service provider having access to trouble ticket entries associated with the first service provider and end-user entries associated with the first service provider and the second service provider having access to trouble ticket entries associated with the second service provider and end-user entries associated with the second service provider, and a trouble ticket tracking mechanism configured to access and maintain trouble ticket entries in the digital repository.
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Headend is obviously available in CATV networks in order to transmit data to the subscribers

Gilbert discloses of billing generation at the third party and service providers being customer of the third party in order to provide billing services on behalf of the service providers.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Present application 09-784068	Co-pending Application 09-784069
2. The method of claim 1, wherein the <u>first end-user is geographically located outside of a peripheral reach of a communications plant operated by the first data services provider</u> , the communications plant being at least one of a hybrid fiber optic coaxial network and an all-fiber optic network.	9. The system of claim 1, wherein at least a portion of the common network comprises a hybrid fiber optic coaxial network

inherently, the communications plant have limited range, and the location of the first user would have been obviously be located outside of the limited range.

Present application 09-784068	Co-pending Application 09-784069
3. The method of claim 1, wherein the <u>headend</u> of the first data services provider is a <u>headend</u> for at least one of CATV signals and data.	11. The system of claim 1, wherein at least a portion of the common network comprises a Data Over Cable Service Interface Specification network.

It would have been obvious to have included headend into the CATV system in order to transmit data to the end users

Present application 09-784068	Co-pending Application 09-784069
4. The method of claim 2, wherein: the communications plant operated by the first data services provider carry CATV signals; and the peripheral reach of the communications plant is restricted by a governmental regulatory authority.	12. The system of claim 1, wherein at least a portion of the common network comprises a European Data Over Cable Service Interface Specification network.

Claim 4 is rejected under non-obvious type double patenting, Europe has specific standards as to the range of the network

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Present application 09-784068	Co-pending Application 09-784069
6. The method of claim 1, further comprising the steps of: storing a first end-user entry in a database of the common data center corresponding to the first end-user; associating the first end-user entry with the first data services provider in the database; storing a second end-user entry in the database of the common data center corresponding to the second end-user; and associating the second end-user entry with the second data services provider in the database.	1. ... populating the digital repository with service provider entries including information about the first service provider and other information about the second service provider; end user entries including information about the first end-user and other information about the second end user, each of the end user entries being associated with at least one service provider...

Claim 6 is rejected under non-obvious type double patenting.

As per claim 7, claim 7 is rejected for the same reasons as rejection to claims 1, 2, 6 above.

As per claim 8, claim 8 is rejected for the same reasons as rejection to claim 3 above

As per claim 9, claim 9 is rejected for the same reasons as rejection to claim 4 above

Present application 09-784068	Co-pending Application 09-784069
10. A method for expanding customer bases for data services providers, comprising the steps of: <u>executing a subscription contract between a third party and a first data service provider to connect a first end-user to a high-speed network dedicated to broadband data transport services operated by the third party;</u> <u>executing another subscription contract between the third party and a second data service provider to connect a second end-user to the high-speed network;</u> connecting the first end-user to a headend of the first data service provider through a common data center of the high-speed network; and connecting the second end-user to a headend of the second data service provider through the common data center of the high-speed network.	See claim 1 of 09-784069

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Gilbert teaches the subscription contract section in order to provide for proper billing, remainder of this claim is rejected for the same reasons as rejection to claim 1 above.

Claim 11 is rejected for the same reasons as rejection to claim 3 above

Present application 09-784068	Co-pending Application 09-784069
12. A method for reusing computer resources to provide operations support services to a plurality of Internet service providers with different customer bases, comprising the steps of: populating a digital repository with entries including information about end-users of a first Internet service provider; populating the digital repository with entries including information about end-users of a second Internet service provider, the second Internet service provider being different from the first Internet service provider; <u>presenting a graphical user interface to the first Internet service provider when seeking to at least one of access, create, and update the information about end-users of the first Internet service provider; and presenting the graphical user interface to the second Internet service provider when seeking to at least one of access, create, and update the information about end-users of the second Internet service provider.</u>	See claim 1 above

Gilbert teaches presentation of GUI in order to access the database, in order to allow users to gain access to the database with ease. The remainder of claim 12 is rejected for the same reasons as rejection to claim 1 and 10 above.

As per claim 13, claim 13 is rejected for the same reasons as rejection to claim 5 above.



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As per claim 14, claim 14 is rejected for the same reason as rejection to claim 1 above.

Present application 09-784068	Co-pending Application 09-784069
15. The method of claim 14, wherein the <u>high-speed data network does not carry cable television signals.</u>	

Gilbert teaches non-CATV signals in order to have plurality of mediums to carry the data across a network.

As per claim 16, claim 16 is rejected for the same reasons as rejection to claim 1 above.

As per claim 17, claim 17 is rejected for the same reasons as rejection to claim 2 above.

As per claim 18, claim 18 is rejected for the same reasons as rejection to claim 3 above.

As per claim 19, claim 19 is rejected for the same reasons as rejection to claim 6 above.

As per claim 20, claim 20 is rejected for the same reasons as rejection to claim 1, 6, 7 above.

As per claim 21, claim 21 is rejected for the same reasons as rejection to claim 2 above.

As per claim 22, claim 22 is rejected for the same reasons as rejection to claim 4 above.

As per claim 23, claim 23 is rejected for the same reasons as rejection to claim 1, 6, 7, 12 above.

As per claim 24, claim 24 is rejected for the same reasons as rejection to claim 5 above.

As per claim 25, claim 25 is rejected for the same reasons as rejection to claim 1, 6, 7 above.

As per claim 26, claim 26 is rejected for the same reasons as rejection to claim 15 above

Claims 1-26 are provisionally rejected under the judicially created doctrine of double patenting over claims 1, 22, 64, 78, 79, 4 of co-pending Application No. 09-784074 in view of Gilbert et al. (hereinafter Gilbert), US 2002-0069163.

Present application 09-784068	Co-pending Application 09-784074
<p>1. A method for expanding customer bases for data services providers, comprising the steps of:</p> <p>connecting a first end-user of a first data services provider to a high-speed network operated by a third party and dedicated to broadband data transport services using a common provisioning system of the third party, the high-speed network being at least one of a hybrid fiber optic coaxial network and an all-fiber optic network;</p> <p>connecting a second end-user of a second data services provider to the high-speed network using the common provisioning system;</p> <p>connecting the first end-user to a <u>headend</u> of the first data services provider through a common data center of the high-speed network; and</p> <p>connecting the second end-user to a <u>headend</u> of the second data services provider through the common data center of the high-speed network</p> <p>generating a first bill for the first data services provider by the common data center based on the first end-user's usage of the high speed network; and</p> <p>generating a second bill for the first data services provider by the common data center based on the second end-user's usage of the high speed network;</p>	<p>1. a network operations support system for supporting multiple service providers, each having end-users connected to a common network operated by the third party, the multiple service providers each being a customer of the third party, comprising:</p> <p>a digital repository populated with entries including information about end-users of a first service provider of the multiple service providers and other information about end-users of a second service provider of the multiple service providers</p> <p>a processor; and</p> <p>a computer readable medium encoded with processor readable instructions that when executed by the processor implement,</p> <p>a common interface mechanism configured to provide a single user interface for the first service provider and the second service provider to access entries in the digital repository, the first service provider having access to entries regarding the end-users of the first service provider and the second service provider having access to entries regarding the end-users of the second service provider</p> <p>a common provisioning mechanism configured to provision end users to the common network and to confirm that a selected service provider of the first service provider and the second service provider is a customer of the third party prior to provisioning an end user of the selected service provider to the common network, and</p> <p>entries including billing information corresponding to usage of the common network by end users of at least one of the multiple service providers</p>

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wherein the third party, is not the first data services provider and not the second data services provider, and  the first data services provider and the second data services provider each being a customer of the third party.	a customer billing mechanism configured to maintain billing information in the digital repository for the third party and to generate a bill for each of the multiple service providers having at least one end user connected to the third party's common network based on usage of the common network by the service provider's respective end-users
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Headend is obviously available in CATV networks in order to transmit data to the subscribers

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

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Present application 09-784068	Co-pending Application 09-784074
2. The method of claim 1, wherein the first end-user is geographically located outside of a peripheral reach of a communications plant operated by the first data services provider, the communications plant being at least one of a hybrid fiber optic coaxial network and an all-fiber optic network.	22. The system of claim 21, wherein the service availability information includes information regarding geographic availability of the common network  64. The computer program product of claim 53, wherein at least one of the multiple service providers comprises an internet service provider

This claim has been rejected under non-obviousness rejection.

Present application 09-784068	Co-pending Application 09-784074
3. The method of claim 1, wherein the <u>headend</u> of the first data services provider is a <u>headend</u> for at least one of CATV signals and data.	78. The system of claim 1, wherein at least a portion of the common network comprises a Data Over Cable Service Interface Specification network.

It would have been obvious to have included headend into the CATV system in order to transmit data to the end users

Present application 09-784068	Co-pending Application 09-784074
4. The method of claim 2, wherein: the communications plant operated by the first data services provider carry CATV signals; and the peripheral reach of the communications plant is restricted by a governmental regulatory authority.	79. The system of claim 1, wherein at least a portion of the common network comprises a European Data Over Cable Service Interface Specification network.

Claim 4 is rejected under non-obvious type double patenting, Europe has specific standards as to the range of the network

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Present application 09-784068	Co-pending Application 09-784074
<p>6. The method of claim 1, further comprising the steps of: storing a first end-user entry in a database of the common data center corresponding to the first end-user; associating the first end-user entry with the first data services provider in the database; storing a second end-user entry in the database of the common data center corresponding to the second end-user; and associating the second end-user entry with the second data services provider in the database.</p>	<p>4. entries including end-user provisioning information, and</p> <p>the computer readable medium is further encoded with processor readable instructions that when executed by the processor implement an end-user management mechanism configured to access and</p> <p>maintain entries in the digital repository regarding at least one of network usage information and end-user provisioning information</p> <p>the digital repository is further populated with entries including network usage information</p>

Claim 6 is rejected under non-obvious type double patenting.

As per claim 7, claim 7 is rejected for the same reasons as rejection to claims 1, 2, 6 above.

As per claim 8, claim 8 is rejected for the same reasons as rejection to claim 3 above

As per claim 9, claim 9 is rejected for the same reasons as rejection to claim 4 above

Present application 09-784068	Co-pending Application 09-784074
<p>10. A method for expanding customer bases for data services providers, comprising the steps of: <u>executing a subscription contract between a third party and a first data service provider to connect a first end-user to a high-speed network dedicated to broadband data transport services operated by the third party;</u> <u>executing another subscription contract between the third party and a second data service provider to connect a second end-user to the high-speed network;</u> connecting the</p>	<p>See claim 1 of 09-784074</p>

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first end-user to a headend of the first data service provider through a common data center of the high-speed network; and connecting the second end-user to a headend of the second data service provider through the common data center of the high-speed network.	
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Gilbert teaches the subscription contract section in order to provide for proper billing, remainder of this

claim is rejected for the same reasons as rejection to claim 1 above.

Claim 11 is rejected for the same reasons as rejection to claim 3 above

Present application 09-784068	Co-pending Application 09-784074
12. A method for reusing computer resources to provide operations support services to a plurality of Internet service providers with different customer bases, comprising the steps of: populating a digital repository with entries including information about end-users of a first Internet service provider; populating the digital repository with entries including information about end-users of a second Internet service provider, the second Internet service provider being different from the first Internet service provider; <u>presenting a graphical user interface to the first Internet service provider when seeking to at least one of access, create, and update the information about end-users of the first Internet service provider; and presenting the graphical user interface to the second Internet service provider when seeking to at least one of access, create, and update the information about end-users of the second Internet service provider.</u>	See claim 1 above

Gilbert teaches presentation of GUI in order to access the database, in order to allow users to gain access

to the database with ease. The remainder of claim 12 is rejected for the same reasons as rejection to claim

1 and 10 above.

As per claim 13, claim 13 is rejected for the same reasons as rejection to claim 5 above.

As per claim 14, claim 14 is rejected for the same reason as rejection to claim 1 above.

Present application 09-784068	Co-pending Application 09-784074
15. The method of claim 14, wherein the <u>high-speed data network does not carry cable television signals.</u>	

Gilbert teaches non-CATV signals in order to have plurality of mediums to carry the data across a network.

As per claim 16, claim 16 is rejected for the same reasons as rejection to claim 1 above.

As per claim 17, claim 17 is rejected for the same reasons as rejection to claim 2 above.

As per claim 18, claim 18 is rejected for the same reasons as rejection to claim 3 above.

As per claim 19, claim 19 is rejected for the same reasons as rejection to claim 6 above.

As per claim 20, claim 20 is rejected for the same reasons as rejection to claim 1, 6, 7 above.

As per claim 21, claim 21 is rejected for the same reasons as rejection to claim 2 above.

As per claim 22, claim 22 is rejected for the same reasons as rejection to claim 4 above.

As per claim 23, claim 23 is rejected for the same reasons as rejection to claim 1, 6, 7, 12 above.

As per claim 24, claim 24 is rejected for the same reasons as rejection to claim 5 above.

As per claim 25, claim 25 is rejected for the same reasons as rejection to claim 1, 6, 7 above.

As per claim 26, claim 26 is rejected for the same reasons as rejection to claim 15 above.

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*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 6, 10-12, 14-15, 16, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert, US 2002-0069163, in view of Nelson, "Cable Modems and Hybrid Fiber-Coax Cable", 1998.

As per claim 1, Gilbert teaches a method for expanding customer bases for data services providers, comprising the steps of:

Connecting a first end-user (Fig 6, item 102) of a first data services provider (Fig 6, item 603a – 603d) to network operated by a third party (Fig 6, item 300; [0011]) and dedicated to broadband data transport services using a common provisioning system of the third party ([0073]),

However, Gilbert does not explicitly teach:

the high-speed network being at least one of a hybrid fiber optic co-axial network and an all-fiber network

Nelson teaches:

a high-speed network being at least one of a hybrid fiber optic co-axial network and an all-fiber network (pg 1, lines 10-15), in order to improve reliability over co-axial network and keeping the cost low (see for example, pg 1, lines 10-15).

It would have been obvious to combine teachings of Gilbert and Nelson in order to improve reliability over co-axial network and keeping the cost low.

connecting a second end-user of a second data second data services provider to the network using the common provisioning system (fig 1, item 101; fig 6, item 102, wherein the system supports multiple service providers and multiple end users);

connecting the first end-user to the first data services provider through a common data center of the network ([0073]); and



connecting the second end-user to the second data services provider through a common data center of the network ([0073]); and

However, Gilbert does not explicitly teaches of head-ends with respect to each of the service providers.

Nelson teaches service providers having head-ends (pg 3, lines 6-20), in order to convert signals and send converted signals to subscribers (pg 3, lines 7-8).

It would have been obvious to combine teachings of Gilbert and Nelson in order to convert signals and send converted signals to subscribers.

generating a first bill for the first data services provider by the common data center based on the first end-user's usage of the high speed network ([0073])

generating a second bill for the second data services provider by the common data center based on the second end-user's usage of the high speed network ([0073]) wherein

the third party, is not the first data services provider and not the second data services provider, (see for example, item 300 Fig 6)

the first data services provider and the second data services provider each being a customer of the third party (Fig 6; [0073])

As per claim 3, Gilbert in view of Nelson teaches the method of claim 1, wherein the headend of the first data services provider is a headend for at least one of CATV signals and data (see claim 1 for details).

As per claim 6, Gilbert teaches the method of claim 1 further comprising the steps of:

storing a first end-user entry in a database of the common data center corresponding to the first end-user ([0064-0066]);

associating the first end user entry with the first data services provider in the database ([0064-0066]);

storing a second end-user entry in the database of the common data center corresponding to the second end-user ([0064-0066]); and

associating the second user entry with the second data services provider in the database ([0064-0066], wherein the bill is generated in accordance with the amount of services used by a particular user corresponding to a particular service).

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As per claim 10, Gilbert teaches a method for expanding customer bases for data services providers, comprising the steps of:

executing a subscription contract between a third party and a first data service provider to connect a first end-user to a high-speed network dedicated to broadband data transport services operated by the third party ([0046], [0053], [0058])

executing another subscription contract between the third party and a second data service provider to connect a second end-user to the high-speed network ([0046], [0053], [0058]);

the remainder of claim 10 is rejected for the same reasons as rejection to claim 1 above.

As per claim 11, claim 11 is rejected for the same reasons as rejection to claim 3 above.

As per claim 12, Gilbert teaches a method for reusing computer resources to provide operations support services to a plurality of Internet service providers with different customer bases, comprising steps of:

presenting a graphical user interface maintained by the third party to the first internet service provider when seeking to at least one of access, create, and update the information about end-users of the first Internet service provider ([0068]); and

presenting the graphical user interface to the second Internet service provider when seeking to at least one of access, create, and update the information about end-users of the second Internet service provider ([0068]).

the remainder of claim 12 is rejected for the same reasons as rejection to claim 1, 10 above.

As per claim 14, claim 14 is rejected for the same reasons as rejection to claim 1 above.

As per claim 15, Gilbert teaches the method of claim 14, wherein the high-speed data network does not carry cable television signals ([0073]).

As per claim 16, claim 16 is rejected for the same reasons as rejection to claim 1 above.

As per claim 19, claim 19 is rejected for the same reasons as rejection to claim 6 above.

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Claims 2, 4, 57-9, 13, 17-18, 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert, US 2002-0069163, in view of Nelson, "Cable Modems and Hybrid Fiber-Coax Cable", 1998, in view of Sipes et al. (hereinafter Sipes), "Deeper Fiber Networks", Feb 2001, further in view of Krauss "Open Access court decision", 2000.

As per claim 2, Gilbert and Nelson does not teach the method of claim 1, wherein the first end user is geographically located outside of a peripheral reach of a communications plant operated by the first data services provider, the communications plant being at least one of a hybrid fiber optic coaxial network and an all fiber optic network

Sipes teaches the limited operation range of HFC networks, it would have been obvious for end users to be located outside of the service range of the data service provider, in order to promote fair competition amongst various data services providers (Krauss, pg 1, 3<sup>rd</sup> paragraph).

As per claim 4, Gilbert teaches the method of claim 2, wherein:  
the communications plant operated by the first data services provider carry CATV signals (see for example, [0073]); and

However, Gilbert does not teach:

the peripheral reach of the communications plant is restricted by a governmental regulatory authority

Krauss teaches:

the peripheral reach of the communications plant is restricted by a governmental regulatory authority (pg 1, 3<sup>rd</sup> paragraph) in order to give subscribers additional choices for service access (pg 1, 3<sup>rd</sup> paragraph).

As per claim 5, Gilbert does not teach the method of claim 4, wherein the communications plant carries CATV signals to other end-users, but no the first end user (however, this is inherent in view of claim 2 of the current application, the plant will carry signals to subscribers within communications range. As stated in claim 2, the first end user is outside the peripheral range of the plant, thus there is no communication between the plant itself and the first end user).

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As per claim 7, claim 7 is rejected for the same reasons as rejection to claims 1, 2, 6 above.

As per claim 8, claim 8 is rejected for the same reasons as rejection to claim 3 above.

As per claim 9, claim 9 is rejected for the same reasons as rejection to claim 4 above.

As per claim 13, claim 13 is rejected for the same reasons as rejection to claim 5 above.

As per claim 17, claim 17 is rejected for the same reasons as rejection to claim 2 above.

As per claim 18, claim 18 is rejected for the same reasons as rejection to claim 3 above.

As per claim 20, claim 20 is rejected for the same reasons as rejection to claim 1, 6, 7 above.

As per claim 21, claim 21 is rejected for the same reasons as rejection to claim 2 above.

As per claim 22, claim 22 is rejected for the same reasons as rejection to claim 4 above.

As per claim 23, claim 23 is rejected for the same reasons as rejection to claim 1, 6, 7, 12 above.

As per claim 24, claim 24 is rejected for the same reasons as rejection to claim 5 above.

As per claim 25, claim 25 is rejected for the same reasons as rejection to claim 1, 6, 7 above.

As per claim 26, claim 26 is rejected for the same reasons as rejection to claim 15 above.

#### *Conclusion*

Applicant's arguments with respect to claim 1-26 have been considered but are moot in view of the new ground(s) of rejection.

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**THIS ACTION IS MADE FINAL.** Applicant is reined of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Zhong whose telephone number is (571)272-3946. The examiner can normally be reached on M-F 7:15 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **BURGESS, GLENTON B** can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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